

UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:	:	
	:	Chapter 11
MOTORS LIQUIDATION COMPANY, et:	:	
al., f/k/a General Motors Corp., et al.	:	Case No. 0950026 REG)
	:	
Debtors	:	

**RESPONSE IN OPPOSITION OF POMPEY DODGE TO DEBTORS' 165<sup>TH</sup>**  
**OMNIBUS OBJECTION TO CLAIMS AND MOTION REQUESTING**  
**ENFORCEMENT OF BAR DATE ORDERS**

Pompey Dodge, Inc. ("Pompey Dodge"), by its undersigned attorney, hereby files this Response in Opposition to Debtors' 165<sup>th</sup> Omnibus Objection to Claims and Motion requesting enforcement of bar orders (Document No. 8847) including Respondent's Proof of Claim, Claim No. 70149 (hereinafter the Claim) and in support of allowance of the Claim as timely, states as follows:

**I. Jurisdiction**

1. This Court has jurisdiction over this matter in accordance with 11 U.S.C. Section 101 and 28 U.S.C. Sections 1157, 1334 and 2075. Determination of whether or not this proof of claim is timely is a "core" proceeding as defined under 28 U.S.C. Section 157(b)(2)(B), without waiver of the rights of respondent under 28 U.S.C. Sections 157(b)(2)(B) and (o), (b)(5) and 1411.

**II. Background Facts Relative to the Claim**

2. The underlying claim of Sarajuan Gilvary was filed in the Court of Common Pleas of Philadelphia County Pennsylvania wherein the Plaintiff, Sarajuan Gilvary filed a products liability suit against General Motors and Pompey Dodge on March 29, 2007 alleging she suffered injuries as a result of a design defect in the General

Motors vehicle in which she rode as a passenger that was involved in an accident on April 16, 2005.

3. At the time that General Motors filed its bankruptcy petition on June 1, 2009, the underlying lawsuit had not proceeded to trial.

4. Plaintiff Sarajuan Gilvary filed a Motion for Relief from Stay with this Court (Document No. 4541).

5. At the hearing held on March 2, 2010 on the said Motion, this Honorable Court ruled from the bench granting the Motion for Relief from the Stay filed by Sarajuan Gilvary (Document No. 4541). Counsel for Motors Liquidation Company was present during the hearing.

6. At the time of the hearing on March 2, 2010, the Court requested counsel for Ms. Gilvary to submit a proposed Order for signature by the Court based on the Court's ruling.

7. By Order dated and docketed May 20, 2010, this Court (Judge Robert Gerber) granted the Motion for Relief from Stay filed by Sarajuan Gilvary (Document No. 5819). A copy of the Order is attached hereto as Exhibit A.

8. The Order of May 20, 2010, Judge Gerber specifically stated at paragraph 5:  
“The dealership has 15 business days from the date of entry of this Order to file a protective proof of claim for indemnification if it so chooses.”

9. This paragraph of the Court May 20, 2010 Order incorporated the Court's Order issued orally from the bench on March 2, 2010.

10. At the hearing before the Court on March 2, 2010, counsel for Motors Liquidation Company was present and objected to the extension to permit Pompey Dodge

to file its protective claim but the Court specifically ordered that the extension would be granted over that objection.

11. Pursuant to the Order issued from the bench on March 2, 2010, Pompey Dodge filed a protective proof of claim for indemnification on March 22, 2010.

12. The Claim as filed by Pompey Dodge is timely pursuant to the order of Judge Gerber announced from the bench on March 2, 2010.

13. The Claim as filed by Pompey Dodge is timely pursuant to the order of Judge Gerber dated May 20, 2010.

14. Respondent hereby seeks allowance of its claim in accordance with the specific Order of May 20, 2010 of this Court.

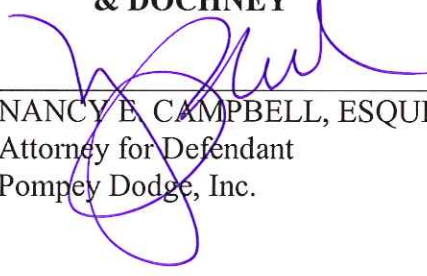
### **III. Argument**

15. The Claim as filed by Pompey Dodge is timely pursuant to the order of Judge Gerber announced from the bench on March 2, 2010.

16. The Claim as filed by Pompey Dodge is timely pursuant to the order of Judge Gerber dated May 20, 2010.

**WHEREFORE**, Pompey Dodge requests this Honorable Court uphold its Order of May 20, 2010 finding that its Claim (Claim No. 70149) is timely.

Respectfully Submitted,  
**KENNEDY, CAMPBELL, LIPSKI  
& DOCHNEY**



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NANCY E. CAMPBELL, ESQUIRE  
Attorney for Defendant  
Pompey Dodge, Inc.

**CERTIFICATE OF SERVICE**

I, Nancy E. Campbell, Esq., do hereby certify that a true and correct copy of the  
Foregoing Objection to Stipulation and Agreed Order Resolving Motion of Sarajuan  
Gilvary for Relief from the Automatic Stay to Continue a Separate Litigation was served  
via first-class mail postage prepaid and/or electronic mail, to counsel listed below:

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**KENNEDY, CAMPBELL, LIPSKI  
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**NANCY E. CAMPBELL, ESQ.**  
Attorney for Pompey Dodge

Dated: February 18, 2011

# EXHIBIT “A”

UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 11
	:	
MOTORS LIQUIDATION COMPANY, <i>et al.</i> ,	:	Case No. 09-50026
f/k/a General Motors Corp., <i>et al.</i> ,	:	
Debtors	:	

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**ORDER**

FOR THE REASONS SET FORTH ON THE RECORD during a hearing conducted on  
March 2, 2010:

1. The Motion for Relief from Stay filed by Sarajuan Gilvary (Document No: 4541) is GRANTED;
2. To the extent that 11 U.S.C. § 362 and/or other provisions of the Bankruptcy Code were viewed as an impediment to Movant proceeding against the dealership, Pompey Dodge, Inc., in the case captioned *Sara Gilvary v. Pompey Dodge, Inc. et al.*, Philadelphia County, Pennsylvania, Court of Common Pleas, March Term, 2007 No. 03736, any stay viewed by any Court to exist is hereby LIFTED.
3. For the avoidance of doubt, for the reasons stated in more detail on the record, to the extent that any stays imposed under federal law have been an impediment to pursuit of the state law claims against the dealership, they no longer are.
4. To the extent that any Party or interested person seeks further relief or clarification from the Bankruptcy Court with respect to any matter of federal law, this Court shall retain jurisdiction without prejudice to any party taking or opposing any position before this Court.
5. The dealership has 15 business days from the date of entry of this Order to file a protective proof of claim for indemnification if it so chooses.

Dated: New York, New York  
March 2, 2010

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So Ordered this 20<sup>th</sup> day of May, 2010.

*s/ Robert E. Gerber*  
United States Bankruptcy Judge